

环境保护法律热点问题

环保专题系列（十）— 7月1日起 VOCs 专项执法检查：企业面临的挑战与应对

近年来，我国尤为重视大气污染的防治工作，空气质量虽得到一定改善，但臭氧污染问题仍较为严峻甚至日益凸显，已成为影响夏季空气质量的重要因素。挥发性有机物（Volatile Organic Compounds, 简称“VOCs”）作为臭氧污染物的主要前体物，一直以来也是环保部门的执法治理重点。为有效遏制夏季臭氧污染，生态环境部及各地将自7月1日起展开 VOCs 专项执法检查。本文将从合规管理的角度，为企业充分准备并应对 VOCs 专项执法检查提供建议。

一、环保部门开展VOCs专项执法检查

2020年6月3日，生态环境部印发《关于在疫情防控常态化前提下积极服务落实“六保”任务坚决打赢打好污染防治攻坚战的意见》，其中明确指出，对臭氧污染较重的地区，加强夏秋季（5月-9月）VOCs 治理。此外，将突出抓好重点行业 VOCs 和氮氧化物（NO_x）治理，全面推进石化、化工、工业涂装、包装印刷等重点行业和油品储运销、工业园区、企业集群等 VOCs 综合治理。

2020年6月24日，生态环境部正式印发《2020年挥发性有机物治理攻坚方案》（以下简称“《方案》”），对 VOCs 治理提出若干措施，要求各级生态环境部门高度重视，并指出从7月1日起，按照“双随机、一公开”模式，开展执法行动，对不能稳定达标排放、不满足无组织控制要求的企业，依法依

规予以处罚。重点查处违法情节及后果严重、屡查屡犯的，典型案例将予以公开曝光。

我们也注意到多地环保部门已发文明确将要开展 VOCs 专项执法行动，尤其是针对夏秋季的专项行动。

二、VOCs相关问题可能产生的法律责任

生态环境部在《方案》中列举了要求重点查处的10种具体违法行为，其中包括：（1）以敞开、泄漏等与环境空气直接接触的形式储存、转移、输送、处置含 VOCs 物料；（2）化工等行业使用敞口式、明流式生产设备；（3）在不操作时开启 VOCs 物料反应装置进出料口、检修口、观察孔等；（4）敞开式喷涂、晾（风）干等生产作业（大型工件除外）；

（5）设备与管线组件密封点发生渗液、滴液等明显泄漏；（6）有机废气输送管道出现臭味、漏风等感官可察觉泄漏；（7）高浓度有机废水集输、储存和处理过程与环境空气直接接触；（8）生产工序和使用环节的有机废气不经过收集处理直接排放；（9）擅自停运或不正常运行废气收集、处理设施及 VOCs 自动监控设施；（10）石化、化工、有机化学原料制造、农药制造、肥料制造、炼焦、人造板、家具制造等行业中应取得排污许可证的企业无证排污。

在法律责任方面，企业如生产和销售 VOCs 含量不符合质量标准或要求的原材料和产品的，市场

监督管理部门有权根据《大气污染防治法》第 103 条规定，没收原材料、产品和违法所得，并处货值金额一倍以上三倍以下的罚款。企业如在生产过程中违反 VOCs 治理的相关规定，环保部门也有权根据《大气污染防治法》第 108 条规定，针对特定的违法情形，要求企业责令改正，处二万元以上二十万元以下的罚款，拒不改正的，责令停产整治。除行政责任以外，如企业违反相关法律规定，排放 VOCs 等有害物质造成严重污染环境的，可能构成污染环境罪并面临刑事责任。

三、VOCs 专项检查下企业的应对策略及合规管理

为充分应对环保部门开展的 VOCs 专项执法检查行动，我们认为企业应当根据《大气污染防治法》及企业所在地关于 VOCs 治理的配套规定，严格审查自身的 VOC 治理现状并加强合规管理，尤其应重点关注如下几点：

(1) 质量标准：企业在生产、进口、销售和使用含 VOCs 的原材料和产品时，应当确保 VOCs 含量符合质量标准或要求。我们注意到，国家层面已针对涂料、胶粘剂、油墨和清洗剂等产品制定有害物质限量和 VOCs 含量限值的最新标准，企业也应当自查此类标准实施后业务所涉及的产品是否符合相应要求。

(2) 生产要求：企业在从事生产活动时，如产生 VOCs 等废气，应当注意在密闭空间或设备中进行，并安装和使用污染防治设施；无法密闭的，则应当尽可能采取措施减少废气排放。

(3) 治理设施：企业应当定期检查 VOCs 治理设施的运行情况，包括废气收集治理设施是否存在故障、是否与生产工艺设备同步运行、是否具备充分的处理能力、输送管道是否存在泄漏等，并及时做好检修维护工作，避免环保部门在现场检查时对 VOCs 治理设施闲置或未运行提出质疑。

(4) 建立台账：企业应依据法律、法规和适用标准做好环境管理台账。重点区域内石化、化工、

工业涂装、包装印刷、油品储运销等重点行业应编制“一厂一策”方案并做好 VOCs 管理台账。工业涂装企业应当使用低 VOCs 含量的涂料，并建立台账，记录生产原料、辅料的使用量、废弃量、去向以及挥发性有机物含量。台账保存期限不得少于三年。

(5) 排放标准：企业应注意遵守国家、行业和地方的大气污染物和 VOCs 排放标准。需要注意的是，生态环境部和国家市场监督管理总局联合印发的《挥发性有机物无组织排放控制标准(GB 37822-2019)》、《制药工业大气污染物排放标准(GB 37823-2019)》以及《涂料、油墨及胶粘剂工业大气污染物排放标准(GB 37824-2019)》三项强制性国家标准实施前既有的企业(如适用)将于 2020 年 7 月 1 日起正式执行这三项标准，相关企业在生产经营过程中应当严格执行上述标准，尤其应当遵守 VOCs 排放限值的具体要求，避免合规风险。

四、结语与建议

在环保部门开展 VOCs 专项执法检查行动的背景下，企业应当密切关注环保部门的监管重点，给自身进行 VOCs 治理现状“体检”，及时发现并处理潜在的合规风险点，提升合规管理能力，同时关注和落实近期即将实施的 VOCs 排放标准。在发生行政案件时，企业应当第一时间判断是否需要专业的环境律师介入协助和应对，通过申辩和听证等合法途径来维护自身合法权益。如您有任何具体的问题，[欢迎邮件联系我们：ecoenvpro@junhe.com](mailto:ecoenvpro@junhe.com)。

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Environmental Protection

Environmental Protection Series (X) - Special Enforcement Actions for VOCs Starting from July 1: Challenges and Countermeasures for Enterprises

In recent years, China has paid special attention to the prevention and control of air pollution. The air quality has improved to some extent, but ozone pollution is still relatively serious and has become an important factor affecting the air quality, particularly in the summer months. Volatile Organic Compounds (“VOCs”), as the main precursors of ozone pollutants, have long been the focus of law enforcement and governance by environmental protection authorities. In order to effectively control ozone pollution in summer, the Ministry of Ecology and Environment and local authorities plan to implement special enforcement actions for VOCs soon. This article will provide advice for enterprises to fully prepare for and respond to the special enforcement actions for VOCs from the perspective of compliance management.

I. The Implementation of Special Enforcement Actions by Environmental Protection Authorities

On June 3, 2020, the Ministry of Ecology and Environment (“MEE”) issued the Opinions on

Actively Serving and Implementing the “Six Priorities” and Resolutely Winning the Battle against Pollution under the Premise of the Normalization of Epidemic Prevention and Control, which clearly pointed out that the control of VOCs in the summer and autumn months (from May to September) should be strengthened in areas with severe ozone pollution. In addition, relevant authorities should focus on the control of VOCs and nitrogen oxides (NO_x) in some industries and promote the comprehensive control of VOCs in key industries such as petrochemicals, chemicals, industrial printing, packaging and printing, oil storage and transportation, industrial parks and enterprise clusters.

On June 24, 2020, the MEE officially issued the 2020 Volatile Organic Compounds Tackling Governance Plan (the “Plan”), which proposed a number of measures for VOCs governance, requiring environmental protection authorities at all levels to pay close attention, and pointed out that enforcement actions shall be carried out in accordance with a mode of “Two Random Selections and One Informational Publicity”. Enterprises that fail to meet the emission standards and fail to

meet the unorganized emission control requirements shall be punished in accordance with the laws and regulations. The authorities shall focus on investigating and punishing illegal activities which result in serious consequences or are repeatedly committed and then publicly expose these cases.

We have also noted that local environment protection authorities have issued documents to carry out special enforcement actions for VOCs, especially in summer and autumn.

II. Potential Legal Liabilities for VOC-related Issues

The MEE listed 10 specific illegal acts that shall be investigated and punished in the Plan: (1) the storage, transfer, transportation and disposal of materials containing VOCs in the form of direct contact with ambient air, such as opening and leakage; (2) the use of open-type and open delivery production equipment in chemical and other industries; (3) the opening of inlet and outlet ports, access ports and observation ports of VOCs material reaction devices when not in operation; (4) the operation of open-type spraying and (air) drying production devices (except for large workpieces); (5) obvious leakages such as seepage and dripping at sealing points between equipment and pipeline components; (6) leakages such as odour and air leakage that occur in the conveying pipelines of organic waste gas; (7) direct contact of high-concentration organic wastewater with ambient air during collection, storage and treatment; (8) direct emission of organic waste gas during production and use without collection and treatment; (9) the unauthorized shutdown or abnormal operation of waste gas collection and treatment facilities and VOCs automatic monitoring facilities; (10) the discharge of pollutants without license by enterprises in the petrochemical, chemical, organic chemical raw material manufacturing,

fertilizer manufacturing, coking, wood-based panels and furniture manufacturing industries that should obtain pollutant discharge permits.

In terms of legal liability, if an enterprise produces and sells raw materials and products that do not meet the quality standards or requirements for VOCs content, pursuant to Article 103 of the Atmospheric Pollution Prevention and Control Law, then authorities for the administration of market regulations have the power to confiscate the raw materials, products and illegal proceeds and impose a fine of not less than one but no more than three times the monetary value of the goods. If an enterprise violates the relevant regulations on VOCs control during the production process, pursuant to the circumstances specified in Article 108 of the Atmospheric Pollution Prevention and Control Law, the environmental protection authorities have the power to order the enterprise to make a correction, impose a fine of up to 20,000 yuan but not more than 200,000 yuan and order it to stop production for rectifications if it refuses to make a correction. In addition to administrative liability, if an enterprise violates the relevant laws and discharges VOCs and other harmful substances which cause serious environmental pollution, it may constitute a crime of environmental pollution and bear criminal liability.

III. Coping Strategies and Compliance Management of Enterprises under Special Enforcement Actions for VOCs

In order to fully respond to the special enforcement actions for VOCs conducted by the environmental protection authorities, we believe that enterprises shall, in accordance with the Atmospheric Pollution Prevention and Control Law and local regulations on VOCs governance, strictly review their own VOCs governance status and strengthen their compliance management, with particular

focus on the following aspects:

(1) **Quality Standards:** When producing, importing, using and selling raw materials and products containing VOCs, enterprises shall ensure that the content of VOCs meets the quality standards or requirements. We have noted that the latest standards for hazardous substance limits and VOCs content limits have been formulated for products such as coatings, adhesives, inks and cleaning agents at the national level. Enterprises should also conduct self-inspection on whether the products involved in their business will meet the corresponding requirements after the implementation of such standards.

(2) **Production Requirements:** When enterprises engage in production activities that generate VOCs, they shall conduct such activities in an enclosed space and install and use pollution prevention facilities and equipment. If the space or the equipment is not enclosed, measures shall be taken to reduce the discharge of waste gases. According to our search of relevant cases, discharging VOCs directly without enclosed treatment is the most common situation under which enterprises are penalized and therefore such requirements need to be paid close attention to.

(3) **Treatment Facilities:** Enterprises shall regularly check the operation of VOCs treatment facilities, including whether waste gas collection and treatment facilities have any faults, whether the facilities are operating synchronously with the production process and equipment, whether the facilities have sufficient treatment capacity, whether there is leakage in the conveying pipelines, etc., and perform timely maintenance and repair work to avoid environmental protection authorities questioning the idleness or non-operation of VOCs treatment facilities during on-site inspections.

(4) **Setting up Ledgers:** Enterprises shall

prepare environmental management ledgers according to laws, regulations and applicable standards. Key industries in areas such as petrochemicals, chemicals, industrial painting, packaging and printing, oil storage, transportation and marketing shall carry out plans of “One Factory, One Policy” and keep VOCs management ledgers. Industrial coating enterprises shall use coatings with low VOCs content and set up ledgers to record the amount of use, the amount of waste, the destination and content of VOCs of the raw and auxiliary materials. The ledgers shall be kept for not less than three years.

(5) **Emission Standards:** Enterprises shall pay attention to comply with national, industrial and local standards for the emission of air pollutants and VOCs. It should be noted that three mandatory national standards issued by MEE and State Administration for Market Regulation, Standard for Fugitive Emission of Volatile Organic Compounds (GB 37822-2019), Emission Standard of Air Pollutants for Pharmaceutical Industry (GB 37823-2019), Emission Standard of Air Pollutants for Paint, Ink and Adhesive Industry (GB 37824-2019), will officially apply to enterprises which existed before the implementation of the standards from July 1, 2020. Relevant enterprises shall strictly implement the above standards in the process of production and operation, and especially comply with the specific requirements of VOCs emission limits to avoid compliance risks.

IV. Conclusion and Suggestions

In the context of VOCs special enforcement actions conducted by environmental protection authorities, enterprises shall pay close attention to the regulatory focus of environment protection authorities, conduct “health checks” on VOCs treatment status, identify and deal with potential compliance risk points in a timely manner and improve

their compliance management abilities. They shall also pay attention to and implement VOCs emissions standards to be implemented in the near future. In the event of an administrative case, the enterprise should quickly determine whether it needs professional environmental lawyers to assist and deal with the case and protect its legitimate rights and interests through legal means such as a defense and hearings. If you have any specific questions, please contact us by email: ecoenvpro@junhe.com.

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